

TITLE 329 SOLID WASTE MANAGEMENT DIVISION

Rule Information Sheet

Waste Tire Management
LSA Document #17-279

Overview

The Indiana Department of Environmental Management (IDEM) is proposing amendments to the waste tire management requirements at 329 IAC 15-1 through 329 IAC 15-5 and new requirements at 329 IAC 15-6 for the legitimate use of waste tires. This rulemaking includes many amendments that were proposed in a previous waste tire rulemaking, which was withdrawn in 2016 because a portion of the proposed amendments pertaining to the legitimate use of waste tires required additional statutory authority to be considered for adoption. To address this situation, the Indiana General Assembly enacted statutory changes that allow for the Environmental Rules Board to adopt rules for the legitimate use of waste tires. After the statutory changes, IDEM initiated this rulemaking to propose amendments to the waste tire rules that include new requirements for the legitimate use of waste tires.

The amendments in this rulemaking include comprehensive updates to the existing waste tire management rules at 329 IAC 15-1 through 329 IAC 15-5. The proposed changes will improve the comprehensibility, administration, and ease of compliance of the rules, while still monitoring for potential threats posed to human health and the environment by improper management of waste tires. The main purposes of these amendments include the following:

- Incorporate recent statutory changes pertaining to waste tire management.
- Update requirements to be consistent with current conditions in Indiana's waste tire management industry.
- Improve the accountability and safety of waste tire management.
- Offer compliance alternatives for certain aspects of waste tire management.
- Update the financial assurance requirements.
- Amend outdated or repetitive requirements.
- Clarify and improve the rule language.

The purpose of new requirements at 329 IAC 15-6 for the legitimate use of waste tires is to provide an alternative to the disposal of waste tires that allows for the use or reuse of waste tires for a commercially valuable application. IDEM has developed the waste tire legitimate use requirements to provide regulatory clarity and detail for the most common legitimate uses of waste tires and to establish a regulatory framework for additional, innovative legitimate uses of waste tires that includes an application and approval process. While the legitimate use requirements provide an alternative to disposal, the legitimate use must be conducted in a manner that does not pose a threat to human health and the environment.

The preliminary adoption hearing for the draft rule, originally scheduled for the August 14, 2019, Environmental Rules Board meeting, was delayed to resolve concerns with the proposed elimination of the standby trust funds for certain financial assurance instruments. Changes include the elimination of the requirements to establish a standby trust fund for a waste tire transporter performance bond (329 IAC 15-5-9) and negotiable letter of credit (329 IAC 15-5-11). Standby trust funds for a waste tire storage site surety bond (329 IAC 15-5-6) and letter of credit (329 IAC 15-5-7) are no longer required if the financial assurance amount is less than \$20,000. IDEM is eliminating the requirements for standby trust funds because, in some cases, the annual cost to maintain a standby trust fund is nearly equal to the required financial assurance amount. In addition, the requirements to deposit the funds from a financial assurance instrument into the waste tire management fund are deleted in 329 IAC 15-5-9 through 329 IAC 15-5-11 because funds from financial assurance instruments are not included in IC 13-20-13-8(d) as a source of money for the waste tire management fund.

Affected Persons

Groups affected by this rulemaking include waste tire transporters, waste tire processing operations, waste tire storage sites, persons that use waste tires for a legitimate use, and local government units. Waste tire transporters, processing operations, and storage sites are the main regulated entities subject to the waste tire rules and the proposed changes will primarily affect these entities. The addition of requirements for the legitimate use of waste tires will affect persons that use waste tires in a manner that meets the requirements for a preapproved legitimate use or requires an application for a legitimate use of waste tires. The local government waste tire amnesty program will only affect local government units and solid waste management districts that choose to host a waste tire amnesty program, as waste tire amnesty programs are optional.

Reasons for the Rule

IDEM initiated this rulemaking to implement statutory changes, make comprehensive updates to the waste tire management rules, and add requirements for the legitimate use of waste tires. Statutory changes in recent Indiana General Assembly legislative sessions prompted administrative rule changes for the waste tire requirements. In addition, because the waste tire rules have not undergone a comprehensive update in many years, IDEM is proposing other amendments that address outdated requirements, errors in the rule language, and requirements that need improvement or clarification.

In addition, the new requirements for the legitimate use of waste tires are prompted by recent statutory changes and IDEM's intent to provide more substantive requirements for alternatives to disposal of waste tires. Legitimate uses of waste tires are currently considered on a case-by-case basis that lacks regulatory detail and is administratively inefficient. The legitimate use requirements will provide improved regulatory clarity for common legitimate uses of waste tires and establish a regulatory framework for additional, innovative legitimate uses of waste tires with an application and approval process.

Economic Impact of the Rule

IDEM does not anticipate a significant economic impact from the rule amendments. The

amendments do not require any additional fees for waste tire processing operations, storage sites, or transporters, and are not projected to increase regular operating costs for registered facilities that operate in compliance with the current requirements. In fact, affected entities may experience reduced administrative and compliance costs with the following compliance options:

- Allowance for an owner or operator of both a waste tire processing operation and a mobile waste tire processing operation to operate under the same registration at 329 IAC 15-3-5(d).
- Abbreviated registration, operational, and contingency plan requirements for mobile waste tire processing operations at 329 IAC 15-3-6, 329 IAC 15-3-17, and 329 IAC 15-3-18.5, respectively.
- Alternative waste tire management requirements at 329 IAC 15-3-17.5.
- Elimination of standby trust fund requirements for certain financial assurance instruments in 329 IAC 15-5.
- Proposed requirements at 329 IAC 15-6 that establish detailed requirements for the legitimate use of waste tires, instead of disposal.

In order to understand and comply with the rule amendments, affected entities may need to initially dedicate administrative time that will vary depending upon the type of facility and the size of the facility's waste tire management operation. The proposed requirements at 329 IAC 15-3-20.5 for recording the daily inventory of passenger tire equivalents (PTEs) at a waste tire facility may add some daily administrative time to comply, but only if the owner or operator is not currently recording this information. IDEM estimates that this calculation will take less than 0.5 hours of administrative time each day, as the information already should be available on waste tire transporter manifest forms and recorded for purposes of not exceeding the maximum number of PTEs allowed in the facility registration.

Scheduled Board Action and Hearings

First Public Hearing: November 13, 2019, Indiana Government Center South, 10 North Senate Avenue, Conference Center Room A, Indianapolis, Indiana.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from Dan Watts, Rules Development Branch, Office of Legal Counsel, (317) 234-5345, (800) 451-6027 (in Indiana), or dwatts1@idem.in.gov.